IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

C. R. No. 5009 of 2007 (O & M)
Date of Decision : 1.10.2007

Sham Lal & Ors.

.....Petitioners

Versus

Sandeep Kumar & Ors.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.J.S. Hooda, Advocate
for the petitioners.

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VINOD K. SHARMA, J. (ORAL)

C.M. No. 18886-CII of 2007

This is an application under Order 22 Rule 3 read with Section 151 C.P.C. for impleading the legal representatives of Jagdish Chander plaintiff No.1.

For the reasons mentioned in the application, persons named in para 3 of the application are brought on record as the legal representatives deceased Jagdish Chander plaintiff No.1, subject to all just exceptions.

Office is directed to carry out all necessary correction in the memo of parties.

C.M. stands allowed.

C. R. No. 5009-2007

This revision petition has been filed against the order dated 9.1.2007 passed by the learned Addl. Civil Judge (Sr. Divn.), Jagadhri vide which application moved by the petitioners under Order 6 Rule 17 C.P.C.

for amendment of their plaint has been dismissed.

The petitioners have sought to add the words “as owners” of the land in question in the head note of the plaint and in the prayer clause. They have also sought to add para 4(a) pedigree table and also claimed that Bakshu Mal had executed a legal and valid Will dated 21.10.1970 in favour of the plaintiffs.

It has been observed by the learned trial Court that the plaintiffs in the original suit had claimed declaration and possession claiming that the judgment and decree dated 12.1.1987 passed in Civil Suit No. 1130 of 1986 by the Civil Court Kurukshetra was illegal and not binding on the possessory rights of Smt. Kako Bai. It was claimed that in spite of limited right in the suit land Smt.Kako Bai transferred the suit land in favour of the defendants by way of collusive decree dated 12.1.1987. The plaintiffs claimed inheritance over the property. After filing the written statement, issues were also framed and two opportunities were availed by the plaintiffs for leading evidence.

The learned trial Court, came to the conclusion that in view of the amendment in Order 6 Rule 17 C.P.C. the amendment sought could not be allowed after the commencement of the trial because it could not be said that the amendment sought was not within the knowledge of the petitioner or could not be found with due diligence.

The order passed is in consonance with the law.

No ground for interference is made out.

Dismissed.

1.10.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**